

that vote, the Senate proceed to the cloture vote with respect to the Johnson nomination, notwithstanding the provisions of rule XXII, with Senator CARPER to speak for 5 minutes and Senator VOINOVICH for 5 minutes before the vote; provided further, that upon the granting of this request, the Bayh amendment No. 568 to the highway bill be withdrawn.

Before the Chair rules, I will state further it is the understanding of Chairman GRASSLEY that with this agreement, Senator BAYH has agreed to not reoffer his amendment or ask for a vote on the standalone measure prior to a review by the Senate Finance Committee at the July hearing.

Mr. REID. Mr. President, reserving the right to object, I would like to speak for a few minutes on the Johnson nomination.

The PRESIDING OFFICER. The unanimous consent request is so amended. Is there objection to the unanimous consent request? Without objection, it is so ordered.

Mr. FRIST. Mr. President, in a few moments, we will be voting on the budget resolution. I congratulate the distinguished chairman of the Senate Budget Committee, Senator JUDD GREGG, for bringing before the Senate this evening the conference agreement on the fiscal year 2006 budget. I would be remiss if I did not thank both the ranking member of the committee, Senator CONRAD, and the Democratic leader for their cooperation in allowing us to proceed with the conference report expeditiously.

I know being chairman of the Budget Committee is a thankless task, and I know the chairman of the Budget Committee feels that way tonight as well. It is not the most glamorous of legislative committees in the Capitol, and being chairman of the Budget Committee does not win any popularity contests with any Senators, again, as the Budget chairman will recognize.

Nevertheless, the working of this committee is absolutely essential to completing our fundamental constitutional responsibilities on all matters fiscal. This is the first year the senior Senator from New Hampshire has had this responsibility, and he has carried out his duties in a professional and businesslike manner.

It probably seems like ages ago, but it was only 12 weeks ago that the President submitted his executive budget proposal to the Congress. When we complete work on this conference report shortly, we will have a congressional budget. It is our blueprint for enacting spending and revenue legislation for the remainder of the year, but it follows the goals the President laid out in his budget to fund national security, extend expiring tax provisions, limiting the growth in nondefense spending, begin to address the growth of entitlements, and cut the deficit in half in less than 5 years. While it may have seemed to the chairman and many other Members involved that this day

would not arrive, in truth, of the 27 budget resolution conference reports agreed to since the beginning of this congressional budget process in 1976, this is the fifth quickest conference report ever agreed to. I congratulate the chairman and his professional staff for this accomplishment.

Having said this, I think the chairman would agree with me that no budget can meet all the demands and all the goals we have for this country. There are many issues that confront us, and some of those, such as national security, protecting the homeland, supporting education and research, and providing basic benefits to needy Americans require resources. It requires making choices, and it also requires setting those policies in place that will permit the economy to grow. For in the end, the best way of serving the needs of this great country is with a strong and vibrant economy.

Meeting these goals by balancing Federal spending and limiting the burden of taxes on all Americans begins with this budget outline, the outline that is before us this evening. Once adopted, our work will only begin as we fill in the details of the blueprint by passing spending and revenue legislation within the aggregate levels specified in the document.

Enforcing the blueprint means the chairman will not have a chance to rest much before he is back here watching over the building of our fiscal house for next year. Congratulations, again, to Chairman GREGG and his staff director, Scott Gudes, and all the staff who worked so hard to bring us to this point this evening.

To summarize, we will vote in a moment on the budget conference report. Following this vote, we will proceed to the debate on the Portman nomination. We may not need a rollcall vote on that nomination. However, I remind my colleagues that we will have a cloture vote on the Johnson nomination tonight. Senators can, therefore, expect one to two additional rollcall votes this evening following the vote on the budget conference report.

The PRESIDING OFFICER. The clerk will report the conference report.

The assistant legislative clerk read as follows:

The committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the concurrent resolution (H. Con. Res. 95), establishing the congressional budget for the United States Government for fiscal year 2006, revising appropriate budgetary levels for fiscal year 2005, and setting forth appropriate budgetary levels for fiscal years 2007 through 2010, having met, have agreed that the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, signed by a majority of the conferees on the part of both Houses.

(The conference report is printed in the proceedings of the House in the RECORD of April 28, 2005.)

Mr. FRIST. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the conference report. The clerk will call the roll.

The legislative clerk called the roll.  
Mr. DURBIN. I announce that the Senator from Connecticut (Mr. LIEBERMAN) is necessarily absent.

The PRESIDING OFFICER (Mr. BURR). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 52, nays 47, as follows:

[Rollcall Vote No. 114 Leg.]

#### YEAS—52

Alexander	Dole	McConnell
Allard	Domenici	Murkowski
Allen	Ensign	Roberts
Bennett	Enzi	Santorum
Bond	Frist	Sessions
Brownback	Graham	Shelby
Bunning	Grassley	Smith
Burns	Gregg	Snowe
Burr	Hagel	Specter
Chambliss	Hatch	Stevens
Coburn	Hutchison	Sununu
Cochran	Inhofe	Talent
Coleman	Isakson	Thomas
Collins	Kyl	Thune
Cornyn	Lott	Vitter
Craig	Lugar	Warner
Crapo	Martinez	
DeMint	McCain	

#### NAYS—47

Akaka	Dorgan	Mikulski
Baucus	Durbin	Murray
Bayh	Feingold	Nelson (FL)
Biden	Feinstein	Nelson (NE)
Bingaman	Harkin	Obama
Boxer	Inouye	Pryor
Byrd	Jeffords	Reed
Cantwell	Johnson	Reid
Carper	Kennedy	Rockefeller
Chafee	Kerry	Salazar
Clinton	Kohl	Sarbanes
Conrad	Landrieu	Schumer
Corzine	Lautenberg	Stabenow
Dayton	Leahy	Voinovich
DeWine	Levin	Wyden
Dodd	Lincoln	

#### NOT VOTING—1

Lieberman

The conference report was agreed to.  
Mr. GREGG. I move to reconsider the vote.

Mr. FRIST. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

#### UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the next vote be the cloture vote with respect to the Johnson nomination; and further that following the disposition of that nomination, the Senate proceed to the consideration of the Portman nomination, as provided under the previous order; provided further that prior to the cloture vote on the Johnson nomination, Senator REID be recognized for up to 5 minutes, Senator VOINOVICH for up to 5 minutes, and Senator CARPER for up to 5 minutes. I further ask consent that following this consent, Senator ALLEN be recognized for up to 3 minutes in order to make a statement regarding his colleague, Senator WARNER.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. FRIST. Mr. President, I announce to my colleagues, if cloture is invoked on the Johnson nomination, we do not expect a vote on the underlying nomination. Also, we do not have a request for a vote on the Portman nomination. Therefore, this may be the last vote of the evening, if cloture is invoked.

The PRESIDING OFFICER. The Senator from Virginia is recognized for 3 minutes.

#### CONGRATULATING SENATOR WARNER

Mr. ALLEN. Mr. President, as the clock strikes midnight, an historic event will occur for all of us in the Senate, but obviously an important date in the history of Virginia. In all of our history, we have had 51 Senators from the Commonwealth of Virginia, such as John Tyler who became President, and Madison, and many great Senators. A historic achievement is being achieved tonight with my wonderful partner and our colleague, JOHN WARNER, which is a testament to his abilities as a leader and the high esteem in which he is held by the people of Virginia.

Tonight, in fact at this very moment, our wonderful colleague JOHN WARNER surpasses on the all-time list Senator Carter Glass, who served in this body for over 26 years. Senator WARNER's extraordinary term of service is now second to only Harry Byrd in serving in the Senate. He was elected in 1978 and he has spent the last 26 years serving this country.

He is a man who loves his job. He is a man from whom we always learn something new, valuable, insightful, or humorous. He is a unique blend of a military leader, having served in World War II and in Korea.

Mr. WARNER. Mr. President, I ask unanimous consent that the balance of his remarks be printed in the RECORD.

Mr. ALLEN. No, I object. He is a country gentleman, a legal scholar, a historian, a great storyteller, and an esteemed statesman, all with the joy of life of a 12-year-old boy. He loves his job. He loves the Senate. And we love him and congratulate him on this momentous occasion.

(Applause, Senators rising.)

#### EXECUTIVE SESSION

#### NOMINATION OF STEPHEN L. JOHNSON TO BE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session, and the clerk will report Calendar No. 61.

The legislative clerk read the nomination of Stephen L. Johnson, of Mary-

land, to be Administrator of the Environmental Protection Agency.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, as one who grew up in Danville and Roanoke, VA, as one who served in the U.S. Navy with JOHN WARNER as our Secretary of the Navy, I join my friend GEORGE ALLEN and all of you in saluting him. It has been my privilege to serve under him as a naval flight officer for a number of years. It has been my privilege to serve with him and with all of you for about the last 4 years.

During that time I have worked with a number of you on our side and on the Republican side to try to find common ground with respect to issues such as class action, asbestos litigation reform, bankruptcy, the next step in welfare reform, a comprehensive energy policy, a business model for the Postal Service in the 21st century. The list goes on.

As a former Governor, one who used to nominate people to serve in cabinet posts and judgeships, I have generally voted to confirm the men and women President Bush has nominated to serve on his team. In a number of instances I have gone well beyond just voting for a nominee of the President but advocating for them. I will give some examples. Tommy Thompson was nominated for Secretary of Health and Human Services. I called him and said: Congratulations; how can I help you get confirmed and how can I help get your team confirmed? I did the same thing with Tom Ridge when he was nominated for Secretary of Homeland Security. I did the same thing with Christie Whitman when she was nominated for EPA, and I did the same thing for Mike Leavitt when he was nominated to head EPA.

I stand before you tonight taking a different posture. I have never put a hold on any nominee in any time I have served here. It is not in my modus operandi. But I have done it tonight and with a good man, Stephen Johnson, who has been nominated by this President to lead the EPA. I am convinced if he is confirmed, he would do a good job.

I stand here tonight asking that we not confirm him at this time. I will tell you why. For the last 3 years, I have been asking the Environmental Protection Agency to give us comparative data, comparing the President's Clear Skies proposal, the proposal of Senator JIM JEFFORDS, SUSAN COLLINS, and JOE LIEBERMAN, and a bipartisan bill I have introduced with several of you. We have asked for comparative data, modeling that actually says this is what each of the bills will do on the economic front. This is what they would do on the environmental front, and here is what they would do on the public health front.

I made that request first in 2002, again in 2003, again in 2004, and again in 2005. I am not going to go into the litany of responses. My friends, the response has been ultimately dis-

appointing. We have tried to compromise. The administration offered us a deal. We have come back with a counterproposal. We have not been able to find middle ground.

Tonight we end up with a decision to go for cloture. For those of you who are going to vote no on cloture, I say thank you. For those who are going to vote yes, let me say this: My friends, I don't care who is President. I don't care who is running EPA. I don't care who is in the majority here. When we are voting on issues such as clean air or clean water or these kinds of issues and we need good scientific data, by golly, we ought to get it. We should not have to beg for it. I don't care who is running this place. We should get it. We should be able to make these decisions based on good science. That is what I want.

The real tragedy, if Stephen Johnson is confirmed tonight—and I wish him well if he is—is we have missed an opportunity not only to confirm a good man, but we will have missed an opportunity to provide this side with, frankly, the kind of scientific data we can go forward with and actually do a good bill, adopt a good clean air bill that will do a good job in reducing sulfur dioxide, nitrogen oxide, and mercury, and slowing the growth of carbon dioxide. We have missed an opportunity if we go forward tonight.

For those who are standing with me, I say thank you. For those who are not, I ask you to remember, someday we will have a Democratic President. Someday we will have a Democratic majority in this Senate. Be careful of the bed that you make, because someday you will get to sleep in it.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I rise in support of the nomination of Stephen Johnson to be Administrator of the EPA. This Senate should vote for cloture and support this nomination.

As chairman of the Oversight of Government Management Subcommittee, I am very interested in the management of our Federal Government. Finding the right people with the right skills to run our Nation's agencies is very important. And President Bush has found the right person to lead the EPA.

Mr. Johnson will be the first career official to hold the position. He has worked at the EPA for 24 years and for 8 of the 9 EPA Administrators. He knows the inner workings and personnel at the agency which may be exactly what is needed to manage it. He has managed virtually every aspect of the agency's rulemaking process.

One of his strongest qualifications is he will be the first professional scientist to be the director of the Environmental Protection Agency. He has already been confirmed twice by the Senate as assistant administrator in 2001 and deputy administrator in 2004. There is a real need at the EPA to have him confirmed. The agency has had four Administrators in 4 years.